and weltering in blood. We do not mean to say, that in no case whatever has a member of those religious sects, who adopt in their full extent the principles of peace, been doomed to suffer violence and injustice; but we do mean to say (and to assert it too with entire confidence), that, as a general thing, they have found in the celestial shield of their amicable principles far more of quietude, far more of protection and happiness, than other religious sects have, who have recognised the right of an appeal to force.

[TO BE CONTINUED.]

INTERNATIONAL ARBITRAMENT.

ITEMS FROM THE NEW YORK MEMORIAL.

We have already mentioned this able document, issued by our coadjutors of the New York Peace Society, "praying Congress to act as mediator between France and Mexico, to act as mediator in general in the various cases of dispute between nations, to adopt the principle of arbitration as a permanent one in cases of dispute between the United States and other countries, and to propose to the various governments of the world, to appoint delegates, to assemble in Congress or Convention with delegates from the United States, for the purpose of preparing a code of international law, obligatory on such nations as may subsequently adopt it, and of acting as a Board of Arbitration, or a Court of Equity and Honor, in cases of dispute that may from time to time be submitted to their consideration."

CASE OF FRANCE AND MEXICO.

Here are four distinct requests; but they all rest on the principle of reference to a third party, as a means of settling international disputes. The difficulties between France and Mexico may have gone too far, even before Congress assembled, to be arrested by the interposition of any friendly power; but the offer of our services as mediator to prevent the fearful waste of blood and treasure incident to war in its mildest form, would have done us more real honor than a thousand victories, and contributed its share of influence towards establishing the practice of mediation as a part of the international policy of Christendom. All tendencies to a result so desirable, we regard with great pleasure, and rejoice in the obviously growing disposition of Christian nations to treat each other as brethren whose interests are indissolubly interlinked.

THE UNITED STATES AS A GENERAL MEDIATOR.

The proposal, that our government should act as a general mediator, may appear somewhat vague; but such a character, could we acquire and preserve it, would do far more than all our armies, fleets and fortifications, to insure us against injury and insult from other nations. The unarmed peacemaker, revered and loved by all, is far safer than the man of blood, armed from head to foot with the most formidable weapons of death; and interest, as well as benevolence, should prompt us to such offices of fraternal kindness.

"The propriety, the praiseworthiness, the necessity, and the duty, of international mediation in general, are admitted on all hands. 'A nation or sovereign,' says Vattel, 'ought to promote peace as much as lies within their power; to dissuade others from breaking it without necessity; to exhort them to a love of justice, equity, and the public tranquillity, and to a love of peace. It is one of the best offices we can perform to nations, and to the whole universe. What a glorious and amiable appellation is that of peace-maker! The most glorious period of Augustus's life was, when he shut the temple of Janus, adjusted the disputes of kings and nations, and gave peace to the universe.' Now, above all others, it is incumbent on these United States to be always ready to promote the welfare of nations. Do not we profess, more emphatically than others, the desire to see all nations in the enjoyment of freedom, and every imaginable blessing? High time, indeed, then is it, that we ceased to look with apparent unconcern on the sanguinary conflicts of nations, while monarchical governments step in between the contending parties, as ministers of mercy and peace."

ARBITRATION AS THE PERMANENT POLICY OF OUR GOVERNMENT.

This suggestion we like very much; and we see not why it cannot be adopted in all cases without delay or difficulty. If Switzerland has so uniformly inserted in her treaties the proviso, that all misunderstandings arising under the treaty, or in any other way, shall in the last resort be adjusted by reference, it would be perfectly easy for us to introduce the same principle, and thus provide an antidote for every war with which we should be liable ever to be threatened. Such a practice, gradually adopted by the leading nations of Christendom, will probably be one of the first steps towards an international tribunal as the ultimate embodiment of this grand principle.

"Your petitioners still further pray your Honorable Body to adopt for this Government the principle of international arbitration, in reference to all cases of dispute between the United States and other powers, which cannot be amicably adjusted by the parties themselves. The adoption of this principle by your Honorable Body would follow as a legitimate consequence, from the character which

you would assume in acting as peace-maker among the nations. And, moreover, as the propriety of this principle has been repeatedly recognized by this Government, by the actual reference of disputes in various instances, this furnishes an additional reason why your Honorable Body should make it a fixed rule of action.

A few words may be requisite in relation to this point; for, though arbitration is occasionally resorted to by nations, war as a custom nevertheless continues.

1. It is observable, that war pays no regard to the merits of a case. Its rule is *might*, not *right*; but arbitration *does* consider those merits.

2. The stronger party being more likely than the weaker to be the aggressor, a resort to war in the case renders it probable that the injured party will receive additional injury, instead of obtaining redress; whereas, by arbitration, that party would in all probability obtain redress. In cases where two parties are nearly equal in strength, by resorting to war, they generally leave off where they begin, nothing being decided, and both parties being sadly injured. Arbitration, in such cases also, would answer a better purpose in both respects; and in cases where the stronger party is the injured one, although by a resort to war redress is generally obtained, how hard the way of obtaining it! Arbitration would afford it in an easier way. In every case, then, the ends of justice are better subserved by arbitration than by war, and all the evils of war are prevented besides.

3. War is an infringement of the independence of nations. Surely it is such an infringement for one nation to dictate to another, and to attempt to enforce its dictation, as is always done by one of the parties in war. But arbitration respects national sovereignty. Here is no dictation, no coercion, nothing but friendly counsel.

4. By resorting to war, nations violate one of the plainest dictates of reason, viz., that parties should not be judges in their own case; which they always assume to be in war. Arbitration respects this dictate, by providing a disinterested party as a judge.

5. The custom of war affords the strong an opportunity to oppress the weak, and the ambitious to pursue their schemes of conquest and aggrandizement. Arbitration is a check to oppression and ambition, and the best security of the defenceless.

6. The custom of war, by which nations take their position on what they denominate the point of honor, refusing to make the proper concessions and overtures for the preservation of peace, and sacrificing justice itself to resentment and pride, is one vast system of duelling. The principle of international arbitration is the principle of order and peace on a scale of equal magnitude. In short, every reason that can be urged in favor of a peaceful adjustment of individual disputes, and against a resort to individual violence, can be urged with as much greater force in favor of international arbitration, and against war, as the evils of war exceed in every respect the evils resulting from individual combat. Now, then, if the ends of justice itself can be better subserved by arbitration than by war, and so much evil be prevented, and so much good done, what plea remains for war?"

A CONGRESS OF NATIONS TO SETTLE THE INTERNATIONAL CODE.

"The present Law of Nations, so called, is in a very unsettled condition. Many of its principles are matters of dispute, the writers on international law disagreeing among themselves. Nor have they any official authority, even did they agree. Neither is it competent for any one government to regulate the matter. Hence, an international tribunal is the only resource that remains, to set these things in order, and to furnish nations with a suitable code of international law. We say *international* law, because we do not propose that the contemplated tribunal shall interfere with the *internal* concerns of nations. We only say, that some common tribunal is necessary, to lay down general and definite rules for the observance of nations in their intercourse with one another. Should these rules contain any thing objectionable, any nation could refuse to adopt that objectionable part. This conservative principle would be a sufficient guard against encroachment on national rights, and would tend to the production of an equitable code on the part of the tribunal. Should some nations eventually refuse to ratify it, this would not render it abortive; for those nations that would ratify it, could make it *their* rule in their intercourse with *one another*, leaving things as they now are in relation to the non-concurring powers, till they might see fit to adopt it.

If it is indispensable to society that the civil law be expressed in the form of a code, how great the necessity of having an international code. 'The law of nations,' says Vattel, 'is as much above the civil law in its importance, as the proceedings of nations and sovereigns surpass, in their consequences, those of private persons.' How plain, how explicit, then, ought the law of nations to be; how guarded at every point; how fixed and acknowledged its principles! And yet, strange to say, this law, all-important as it is, has never as yet been so much as put into the form of a code; and many of its principles themselves remain matters of dispute, and have been the frequent occasion of war!

That a nation, under the existing state of things, has sometimes acted in opposition to the general sentiment, and disregarded rules which others have thought proper to observe, is so far from being an argument against embodying international law in a code, that it is the very reverse. A disputed principle of international law is not an established part of it; hence the necessity of having its principles settled, and the admitted law of nations explicitly expressed and recognised. But, as the matter now stands, any nation may disregard what *others* choose to consider the law of nations. For, under what obligation is an independent nation to regard the opinions of unauthorised writers on the duties of nations, or to make the practice of other nations a sample for itself?

But do your memorialists, in proposing the formation of a code of international law, necessarily involve the idea of innovation upon the established usages and the acknowledged principles of nations? By no means. The present law of nations could be thrown into the form of a code, without a single alteration; and that code, duly recognised by the nations, would be binding. Here would be a definite and certain rule; and even this would be a desideratum. But your memorialists would have, *if practicable*, some improvement

made in its *principles*. They would at least have an *attempt* made to improve them. They would have suitable delegates from the various nations *convene*, and discuss and investigate principles, and *see* if they could not agree upon some improvement; and if they could not do this, let them explicitly state the principles on which they might agree, and this would form a definite code. Some who have no confidence in the utility of a code of this kind, admit that 'it could scarcely do any harm.' Inasmuch, therefore, as a trial of the experiment could safely be made, why should it not be done; and thus afford the opportunity of bringing its supposed advantages to the test? And the more especially so, when, as they admit, 'the authority of law, once established and acknowledged among men, is second only to that of religion.' Certainly, if this is so, incalculable good would result from a wise code of international law enacted by an authorised tribunal, and ratified by the nations themselves."

A COURT OF NATIONS AS A STANDING BOARD OF ARBITRATORS.

"The propriety of the principle of international arbitration being admitted, your memorialists have only to show, that the *mode* of arbitration which they propose is the preferable one. And they are at a loss to perceive how any one, after due consideration, can fail to see, that a Council, composed of the statesmen, the sages, the philanthropists, the master-minds of the earth, having nought to divide their attention, and acting in accordance with a well-digested code, would be as much superior to a temporary, individual arbitrator, looking uncounteracted to his own interest, burthened with the affairs of state, and having to form a decision under the disadvantage of unsettled principles of international law, as can well be conceived.

The establishment of *a system* of international arbitration would likewise have great advantages over mere temporary arbitration in other respects. Let it be the understanding, that nations are uniformly to refer their disputes, and let there be a tribunal established to which to refer them, and the various powers would then feel safe in making a great reduction of their naval and military forces, and arbitration would be resorted to without waiting for war to commence. Whereas, without any such system and organization, arbitration being only occasional, it is seldom resorted to till after the commencement of hostilities, and then but occasionally, just as chance or caprice may happen to direct. Under such circumstances, peace cannot be insured. Governments will not feel safe in reducing their forces, and thus will the war-system continue. Who then can fail to give the preference to the mode of arbitration proposed by your memorialists?"

OBJECTIONS TO A COURT OF NATIONS.

"1. Some who object to such a Board of Arbitrators say, that the probability is, that its decrees 'would be merely nugatory.' But why nugatory? In cases of ordinary arbitration, decisions in general are not nugatory, though no compulsion is used. Why then would the decisions of the contemplated tribunal be nugatory?

Should this, however, be the result, no harm would be done, to say the least. That something, nay, that much *would* be accomplished, is evident from the consideration, that 'judges not only pass judgment in particular cases, but shape the opinions of mankind in analogous ones;' and that 'those opinions are the basis of all government and legislation.'

2. But it is feared, that if it *did* have any influence, that influence would be 'perverted to the worst ends.' Your memorialists are at a loss to perceive how this would be possible. The tribunal under consideration would only be called upon to decide cases of *external* dispute between nations, not those involving principles of government, or any vital principles whatever; in short, nothing that would be calculated to call into exercise the monarchical or the republican sympathies of any of its members—nothing that a monarchy and a democracy would hesitate to submit to the arbitration of a crowned head of a kingdom, or an uncrowned head of a republic. Who dreams of submitting to arbitration, whether a nation shall have a monarchical or a republican form of government, or surrender its independence, or be interfered with in any manner whatever, where others are not concerned? Certainly, not your memorialists. They merely propose, that such points as are proper subjects of international arbitration, be referred to a tribunal of the kind already designated, instead of a temporary, individual arbitrator, or the sword. Where the danger in this? the more especially, as the parties would only be bound *in honor* to regard decisions *manifestly just.* This provision would tend to the production of righteous decisions on the part of the tribunal, inasmuch as unrighteous ones, under such circumstances, would effect nothing but the disgrace of that body itself. With far greater propriety, therefore, might the plea of danger be made, in submitting the disputes of individuals to courts of justice, whereby they are *compelled* to regard decisions, than in this case of nations. The decisions of the proposed tribunal would evidently have all the efficacy they ought to have, and no more. They would have only a moral influence, and that just in proportion to their rectitude. Thus, while national *independence* would remain inviolate, the fulfilment of national *obligation* would be secured.

3. Your memorialists are not a little surprised, that the project of Henry IV should be seriously compared with the plan by them recommended, and be pronounced far superior in point of practical wisdom. Whether a scheme to revolutionize all Christendom, to subjugate and partition the dominant powers of the day, to change the boundaries of states, and apply to them the levelling principle of agrarianism, thereby interfering with the sovereignty and other primary rights of nations, and introducing innovations and changes without number, is more evincive of practical wisdom, than a proposition to draw out the law of nations into the form of a code, and to reduce the present practice of nations with regard to arbitration, to an orderly system, as proposed by your memorialists, is for your Honorable Body to decide.

Nor less are your memorialists surprised, that it should be asserted, that the famous Amphictyonic Council 'had no effect whatever in healing the dissensions of the Grecian Commonwealths.' In relation to this Council, Rees says, "Their determinations were

received with the greatest veneration, and were even held sacred and inviolable.' Rollin says, 'The authority of the Amphictyons had always been of great weight in Greece; but it began to decline exceedingly, from the moment they condescended to admit Philip of Macedon into their body.' Just as your memorialists would have it. A case more to their purpose could not be conceived. The decisions of that Council were efficacious exactly in proportion to their equity; and they lost their influence when the Macedonian began to pervert it.

The assertion, that the Germanic Diet accomplished nothing for the pacification of the States of Germany, is equally at variance with history. For three hundred years, the German Empire had been the theatre of barbarism and anarchy; when Maximilian I accomplished what his predecessors had so long attempted in vain. 'In 1495,' says the Encyclopædia Americana, 'he had put an end to internal troubles and violence, by the perpetual peace of the empire, decreed by the Diet of Worms.'

Your memorialists would here bring into view the auspicious results emanating from the system of arbitration adopted by the Helvetic Union. 'The Swiss,' says Vattel, 'have had the precaution, in all their alliances among themselves, and even in those they have contracted with the neighboring powers, to agree beforehand on the manner in which their disputes were to be submitted to arbitrators, in case they could not adjust them in an amicable manner. This wise precaution has not a little contributed to maintain the Helvetic Republic in that flourishing state which secures its liberty, and renders it respectable throughout Europe.' The same writer, in allusion to international arbitration, &c., says, 'In order to put in practice any of these methods, it is necessary to speak with each other, and to confer together. Conferences and congresses are then a way of reconciliation which the law of nature recommends to nations, as proper to put an amicable period to their differences.' Thus is the idea of a Congress of Nations sanctioned by the *law* of nations. Not only so; the *practice* of nations sanctions it. From 1644, to 1814, there were more than thirty convocations of temporary Congresses of Nations, embracing various states of Europe. 'Wars have been terminated by them; conflicting jurisdictions have been settled; boundaries have been ascertained; commercial conventions have been formed; and, in various ways, the interests of friendly intercourse have been promoted.'

Your memorialists, therefore, in proposing the establishment of a Congress of Nations, are far from acting the part of visionary innovators; they merely propose an *improvement* of a present international regulation. They propose, that, instead of temporary Congresses, convened after war *has done* its bloody work, there be a permanent Congress to *prevent* war—a body of sages and philanthropists always ready, to whom to refer disputes *before* war, rather than *after* it. This is the sum of the whole matter. And what is there visionary or impracticable in it? What is there in it that is not decidedly better than the present state of things? This improvement in international jurisprudence, this advance upon preceding ages, is due from this very generation, to the enlightened period in which we live. Your memorialists can but think, that the venerable Franklin had some

such plan in view, when he said, 'We daily make great improvements in *natural*, there is one I wish to see in *moral* philosophy; the discovery of a plan that would induce and oblige nations to settle their disputes without first cutting one another's throats.' Something of the kind the illustrious Jefferson seems likewise to have had in view, when, speaking of the inefficiency of war in redressing wrong, and of its multiplying, instead of indemnifying losses, he exclaimed, 'These truths are palpable, and must, in the progress of time, have their influence on the minds and conduct of nations.' And in authorising his name to be registered among the names of the members of the Massachusetts Peace Society, he gave still stronger testimony in favor of pacific principles and measures."

Our readers will perceive that most of these extracts are answers to the reasons assigned by the committee in Congress (1838) for declining to take *immediate* measures towards securing a Congress of Nations. That committee were in a delicate predicament not uncommon with politicians in a republic. Their judgment most obviously approved the proposal of an international tribunal as a substitute for war; but, unwilling then to take any decisive step towards it, they tortured their ingenuity to frame a plausible excuse for denying the prayer of the petitioners, until the popular will should be so fully expressed as to make it safe for statesmen to move in earnest on the subject. Thorough investigation would put these and all other objections to flight; but rulers can be moved to action only by a general and urgent demand from the people.

REFERENCE BETTER THAN LITIGATION.

WASHINGTON'S DYING TESTIMONY.

Practical wisdom was the prominent trait in the character of Washington; and we are glad to find in his will, dated July 9, 1790, so strong a testimony as the following, to the value of arbitration:

"In the construction of this will and testament, it will be readily perceived that no professional character has been consulted, or had any agency in the draught; and that, although it has occupied many of my leisure hours to digest, and to throw it into its present form, it may, notwithstanding, appear crude and incorrect; but having endeavored to be plain and explicit in all the devises, even at the expense of prolixity, perhaps of tautology, I hope and trust that no disputes will arise concerning them. But if, contrary to expectations, the case should be otherwise, from want of legal expressions, or the usual technical terms, or because too much or too little has